



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,616	02/10/2004	Howard Jason Harrison	81328.0003	3389
29693	7590	12/07/2010	EXAMINER	
WILEY REIN LLP 1776 K. STREET N.W. WASHINGTON, DC 20006				LE, TAN
ART UNIT		PAPER NUMBER		
3632				
MAIL DATE		DELIVERY MODE		
12/07/2010		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

---

*Ex parte* HOWARD JASON HARRISON and  
DANA ALISON HARRISON

---

Appeal 2009-009153  
Application 10/774,616  
Technology Center 3600

---

Before WILLIAM F. PATE III, STEVEN D.A. McCARTHY and  
KEN B. BARRETT, *Administrative Patent Judges*.

McCARTHY, *Administrative Patent Judge*.

DECISION ON APPEAL<sup>1</sup>

---

<sup>1</sup> The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

1       The Appellants appeal the Examiner's final decision rejecting claims  
2 1, 2, 6-8 and 12 under 35 U.S.C. § 134. More specifically, the Examiner  
3 rejects claims 1, 2, 6-8 and 12 under 35 U.S.C. § 102(b) as being anticipated  
4 by Aloisi (US 6,309,016 B1, issued Oct. 30, 2001). We have jurisdiction  
5 over the appeal under 35 U.S.C. § 6(b).

6       We REVERSE.

7       The claimed subject matter relates to an eye glass holder in the figure  
8 of a toy or doll. (Abstract and fig. 1).

9       Claims 1 and 7 are independent claims. Claim 1 recites:

10       1. A doll figure comprising:  
11               (a) arms or appendages attached to a body or  
12               torso, wherein the arms or appendages form a  
13               horizontal position relative to the ground, and  
14               wherein the arms or appendages together with the  
15               body or torso are sized to accommodate a pair of a  
16               person[']s or child[']s eyeglasses so that the  
17               eyeglasses contact each of the arms or appendages  
18               and the arms or appendages together with the body  
19               or torso form a holding device for receiving the  
20               pair of eyeglasses; and  
21               (b) a support structure for holding the doll  
22               figure in an upright position, wherein the doll  
23               figure is capable of securely holding a pair of  
24               eyeglasses.

25  
26       Claim 7 recites a figure including a holding device for receiving a pair  
27       of a person's or a child's eyeglasses, wherein the eyeglasses contact the  
28       device at least at the part of the eyeglass frame around or near the lens, and  
29       wherein the moveable arms or appendages together with a body or torso of  
30       the figure are sized to accommodate a pair of eyeglasses so that the  
31       eyeglasses contact each of the arms or appendages.

1       The Examiner misconstrues the limitation “sized to accommodate  
2 [sic] a pair of a person[’]s or child[’]s eyeglasses so that the eyeglasses  
3 contact each of the arms or appendages” as not being structural limitation.  
4 (Ans. 5). The size of the figure, even if described in terms of a pair of  
5 eyeglasses, limits the structure of the figure. The Examiner does not appear  
6 to find that Aloisi describes a figure sized to accommodate a pair of a  
7 person’s or child’s eyeglasses so that the eyeglasses contact each of the arms  
8 or appendages. (*See* Ans. 3-4 and 7).

9       Aloisi describes various furniture pieces representing a three  
10 dimensional representation of a figure, e.g. a person, to hold and organize  
11 objects. (Aloisi, col. 1, ll. 43-53; and see fig. 2). The Appellants point out  
12 that Aloisi describes “furniture pieces that hold lamps and books (Fig. 2),  
13 potted plants (Fig. 4), and diaper bags (Fig. 6). The embodiment of Fig. 8 of  
14 Aloisi depicts the horizontal arms (835a and 835b) where element (820) is  
15 the seat of a chair.” (App. Br. 9). The Appellants’ “specification refer[s] to  
16 particular sizes of eyeglasses at paragraph [0008]. There is nothing in this  
17 description that would lead one to reasonably conclude that the invention  
18 encompasses a figure the size of a chair as in the furniture of Aloisi’s Fig. 8,  
19 for example.” (App. Br. 10). As such the Appellants are correct when they  
20 contend that “[i]t is unreasonable for anyone to conclude that such an  
21 arrangement of the arm elements can accommodate a pair of eyeglasses so  
22 that the eyeglasses contact each arm.” (App. Br. 9).

23       We do not sustain the rejections of claims 1 and 7 under § 102(b) as  
24 being anticipated by Aloisi. Consequently, we also do not sustain the  
25 rejections of dependent claims 2, 6, 8 and 12 under § 102(b) as being  
26 anticipated by Aloisi.

Appeal 2009-009153  
Application 10/774,616

## DECISION

2 We REVERSE the Examiner's decision rejecting claims 1, 2, 6-8 and  
3 12.

4

**REVERSED**

6

7 Klh

8

9

10 WILEY REIN LLP  
11 1776 K. STREET N.W.  
12 WASHINGTON, DC 20006